



# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

Mitchell E. Daniels, Jr.  
Governor

Thomas W. Easterly  
Commissioner

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Toll Free (800) 451-6027  
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November 13, 2008

VIA CERTIFIED MAIL 7005 1160 0001 2628 6977

Ken Will, Owner  
VIM Recycling, Inc.  
P. O. Box 3055  
Elkhart, Indiana 46515

Re: Inspection Summary Letter  
VIM Recycling, Inc.  
Elkhart, Elkhart County

Dear Mr. Will:

On October 2, 2008, a representative of the Indiana Department of Environmental Management, Office of Land Quality, conducted an inspection of VIM Recycling, Inc., located at 29861 Old US Hwy 33, Elkhart, Indiana. This inspection was conducted pursuant to IC 13-14-2-2. For your information, and in accordance with IC 13-14-5, a summary of the inspection is provided below:

Type of Inspection:

- ☐ Complete Industrial Waste Inspection
- ☐ Limited Industrial Waste Inspection
- ☐ Complaint
- ☒ Other-Compliance with Agreed Order Evaluation

Results of Inspection:

- ☐ No violations were observed
- ☐ Violations were observed but corrected during the inspection. See inspection report.
- ☐ Violations were observed. See inspection report.
- ☐ Additional information/review is required to evaluate overall compliance.
- ☒ Violations were observed and will be referred to the Office of Enforcement. See inspection report.

Please direct any response to this letter and any questions to Rick Roudebush at 317/308-3045.

Sincerely,

Bruce Kizer, Branch Chief  
Compliance and Response Branch  
Office of Land Quality

Enclosure

cc: Elkhart County Health Department

## DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## INDIANAPOLIS

OFFICE MEMORANDUM

Date: October 13, 2008

TO: Valerie Tachtiris, Deputy Attorney General  
Robert B. Keene, IDEM Asst. Commissioner

Thru: Bruce Kizer, Branch Chief *BT 10/16*  
Compliance and Response Branch  
Office of Land Quality

FROM: Rick Roudebush, Technical Environmental Specialist *R 10-13-08*  
Compliance and Response Branch, OLQ

SUBJECT: Compliance Evaluation at VIM Recycling, Elkhart, Elkhart County, October 2, 2008

**BACKGROUND:**

This evaluation was requested by the IDEM Office of Enforcement and Attorney General Office to evaluate compliance with the VIM Recycling signed Agreed Order, which had a compliance deadline of September 30, 2008. This Agree Order still remains in effect.

**EVALUATION OBSERVATIONS:**

This evaluation was conducted with Mr. Ken Will, Owner, VIM Recycling, Steve Schafer, EM II, Ag-Solid Waste Inspector, NRO and Jason Palin, EM II, Office of Enforcement. The tour of the facility began with a walk around the perimeter of the facility grounds, followed by a tour of the re-built processing building and processing operations of the covered "C" Pile wastes.

During the perimeter tour, no off site migration of storm water was observed and the parameter "berm" remained intact, as it has been for some time. The tour of the processing building revealed a bagging operation line had been set up and tested, bagging natural mulch products. However, the bagging process was not currently operational.

The tour of the operations at the covered "C" pile waste area revealed the facility to be unearthing "C" pile wastes and shifting (shaking) the wastes into three (3) size types; fines (< three inches in size), medium sizes (~three to six inches in size) and larger pieces (> six inches in size). A large crane was on top of the buried "C" pile waste, excavating the wastes from the upper portion of the pile. While the crane was unearthing the "C grade" waste and also while the wastes were being shifted (shakened), the waste was observed emitting a lot of smoke, from internal combustion within the pile. A three (3) or four (4) inch fire hose was noted on top of the "C" pile waste, in close proximity to the crane and shifting (shaking) operations. No grinding of "C" pile wastes was occurring during this evaluation. However, some of the "C" pile wastes had been ground and mixed with other materials, prior to September 30, 2008.

**EVALUATION RESULTS:**

Vim Recycling is in violation with the following provisions of the January 18, 2007 IDEM, Office of Enforcement Agreed Order (AO), which had a compliance deadline of September 30, 2008:

AO Order Item Number 2:

"The Respondent shall comply with 329 IAC 10-4-2, 329 IAC 10-4-3, IC 13-30-2-1(3),

IC 13-30-2-1(4) and IC 13-30-2-1(5)", which correspond to environmental release and open dumping of regulated waste(s) prohibitions of the Indiana Administrative Code (IAC) and Indiana (Environmental) Code (IC).

*The Respondent has not removed and disposed of the "C" pile wastes, in accordance with the provision of the Agreed Order.*

AO Order Item Number 5:

"If the "C grade" solid waste is being sold for agronomic purposes, Respondent shall first obtain a marketing and distribution permit under 329 IAC 6.1. Disposal of the "C grade" solid waste must be in a permitted solid waste landfill. Any other placement of the "C grade" solid waste on the land must be in compliance with 329 IAC 10. Any other management/distribution of the "C grade" solid waste must be in compliance with applicable Federal, State and Local Statutes and Ordinances.

*The facility has not obtained a "Marketing and Distribution" (M&D) permit. However, VIM Recycling has applied to IDEM, Office of Land Quality to obtain the M&D permit. A draft permit was issued for public comment on July 13, 2008. The draft permit is currently under IDEM review. VIM Recycling has not disposed of the "C" pile wastes, nor complied with all other applicable "Federal, State and Local Statutes and Ordinances".*

AO Order Item Number 6:

"Upon effective date of this Agree Order, Respondent shall immediately cease composting/processing City of Elkhart bio-solids with processed "C grade" solid waste and gypsum, unless, done in compliance with all applicable laws, rules, orders and/or permits."

*Although VIM Recycling conducted further mixing of the "C grade" wastes with the above mentioned materials under the "Demonstration Project", VIM Recycling continued to "process" and mix materials with "C grade" wastes after June 30, 2008 (expiration date of the Demonstration Project permitting period) and prior to September 30, 2008 (expiration of the Agreed Order).*

AO Order Item Number 8:

Order Item Number 8, states, in part, "...the Respondent shall submit a sampling and analysis plan that confirms that the berm does not cause a threat to human health and the environment. Additionally, the plan must demonstrate that the berm is physically and chemically stable to be left in place and that vegetative cover can be established on the surface." This Order Item goes on to state, in part, "The planned sampling locations at the Site and sample analytical parameters must be pre-approved by IDEM and be in accordance with IC 13-30-2-1 and must follow U.S. Environmental Protection Agency Publication SW-846. This Item Number also state, in part, "The sampling and analysis plan shall be submitted to IDEM within sixty (60) days of the AO Effective Date."

*No sampling and analysis plan was or has been submitted by VIM Recycling to chemically and physically evaluate the berm constructed around the facility.*

AO Order Item Number 9:

"Respondent shall remove and properly dispose of the "C grade" solid waste at the Site per the following schedule with the inception date of January 31, 2006:"

- a. Respondent shall remove 4,675 tons on or before July 31, 2007
- b. Respondent shall remove an additional 4,675 tons (cumulative total of 9,350 tons on or before December 31, 2007)
- c. Respondent shall remove an additional 4,675 tons (cumulative total of 14,025 tons on or before May 31, 2008)
- d. Respondent shall remove any and all remaining "C grade" solid waste on or before

September 30, 2008

***VIM Recycling did not "remove and properly dispose" all of the "C grade" solid waste accumulated on site at the facility, located at 29861 Old US Highway 33, Elkhart, Indiana, within the allotted schedule and by the deadline of September 20, 2008.***

**CONCLUSIONS:**

Vim Recycling, located at 29861 Old US Highway 33, Elkhart, Elkhart County, Indiana, failed to comply with five (5) of the January 18, 2007 IDEM Agreed Order provisions.

The VIM Recycling draft Title V Air Permit issuance is currently scheduled for a requested public hearing on November 20, 2008, in Elkhart, Indiana.

CC: IDEM Office of Enforcement  
IDEM Office of Air Quality  
Indiana State Fire Marshall Office  
Elkhart County Health Department



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VIA CERTIFIED MAIL 7002 3150 0003 3228 7720

February 12, 2009

Ken Will, Owner  
VIM Recycling, Inc.  
P. O. Box 3055  
Elkhart, Indiana 46515

Re: Violation-Referral to Enforcement Letter  
VIM Recycling, Inc. (Superior Excavating)  
Warsaw, Kosciusko County

Dear Mr. Will:

On January 6, 2009, representatives of the Indiana Department of Environmental Management, Office of Land Quality and Northern Regional Office (NRO), conducted an inspection of VIM Recycling, Inc. operations, located at 2816 Old US Hwy 30, Warsaw, Indiana. On January 21 and 22, 2009, representatives of the Office of Water Quality, Office of Air Quality (NRO) and Office of Land Quality, conducted multimedia inspections at the Warsaw, Goshen (1-21), Elkhart and Argos (1-22) sites. These inspections were conducted pursuant to IC 13-14-2-2. For your information, and in accordance with IC 13-14-5, a summary of the inspections are provided below:

Type of Inspection:	<input type="checkbox"/> Complete Industrial Waste Inspection
	<input type="checkbox"/> Limited Industrial Waste Inspection
	<input checked="" type="checkbox"/> Complaint (1-6-09 Warsaw Site only)
	<input checked="" type="checkbox"/> Other- <u>Multimedia (1-21 and 22, 2009)</u>

Results of Inspection:	<input type="checkbox"/> No violations were observed
	<input type="checkbox"/> Violations were observed but corrected during the inspection. See inspection report.
	<input type="checkbox"/> Violations were observed. See inspection report.
	<input type="checkbox"/> Additional information/review is required to evaluate overall compliance.
	<input checked="" type="checkbox"/> Violations were observed and will be referred to the Office of Land Quality Enforcement Section. See enclosed inspection reports.

The following violations were found at the VIM Recycling, Warsaw, Kosciusko County, operations site on January 6 and 21, 2009:

1. **Open dumping of regulated solid (wood) wastes (329 IAC 10-4-2 and 3).**  
Additional regulated solid wastes are being deposited at the site on daily basis.

2. **Processing (grinding) regulated solid wastes without a permit (329 IAC 11-3).**
3. **Failure to obtain beneficial reuse approval (329 IAC 10-3-1(16)) for the sale of animal bedding made from grinding of waste wood.**
4. **Storm Water:**  
**VIM Recycling failed to submit a Rule 6 Notice of Intent (NOI) Letter, as required by 327 IAC 15-6, for this site. Potential outfall(s): Discharges to water of the state in the north-eastern corner of property into Deeds Ditch by means of a potential wetland.**
5. **Air Quality:**  
**VIM Warsaw Operations was operating without an Office of Air Quality Operating permit in violation of 326 IAC 2.**

The following violations were found at the VIM Recycling, Goshen, Elkhart County, operations site on January 21, 2009:

1. **Failure to obtain a beneficial reuse approval for the sale of "gypsum paper" generated from grinding activities being sold for small animal bedding. This is a violation of 329 IAC 10-3-1(16).**
2. **Storm Water:**  
**VIM Recycling failed submit a Rule 6 Notice of Intent (NOI) Letter, as required by 327 IAC 15-6, by the inspection date of 1-21-09. Potential outfall(s): While on-site Ken Will confirmed the facility has storm sewers that drain to a Horn Ditch north of the property. Each storm sewer is a discharge to water of the state. VIM Recycling filed a "No Exposure" notice with IDEM on 1-27-09. However, it was confirmed on 1-21-09, VIM Recycling, Goshen operations, have exposure issues with the wallboard and ground wallboard materials on-site.**

The following violations of the January 18, 2007 IDEM Agreed Order (AO) were found at the VIM Recycling Elkhart, Elkhart County, operations site on January 22, 2009:

1. **Item # 2 of the AO – Upon the effective date of this Agreed Order, Respondent shall comply with 329 IAC 10-2, 329 IAC 10-3, IC 13-30-2-1(3), IC 13-30-2-1(4) and IC 13-30-2-1(5) (prohibition against open dumping of regulated wastes). The Respondent has allowed "C" pile wastes to remain open dumped on the property.**
2. **Item #7 of the AO – Upon the effective date of this Agreed Order, Respondent shall immediately cease using any regulated solid wastes to construct the on-site berm, unless specifically allowed in writing by IDEM. The Respondent has placed "C" pile waste (fines material) on top of the berm along the north side of the facility. No written approval from IDEM was obtained prior to VIM placing "C" pile wastes on top of the berm.**
3. **Item #8 of the AO – In accordance with 329 IAC 10-4-4, the commissioner may allow other methods other than disposal for controlling and correcting nuisance conditions that occur as a result of an open dump. In order to make that determination the Respondent shall submit a sampling and analysis plan that confirms that the berm does not cause a threat to human health and the environment. Additionally, the plan must demonstrate that the berm is physically and chemically stable to be left in place and that vegetative cover can be established on the surface of the berm. No sampling and analysis plan was submitted to IDEM for approval, nor has VIM demonstrated that the berm is physically and chemically stable and that the berm can support vegetative cover.**

**that the berm is physically and chemically stable and that the berm can support vegetative cover.**

4. Item #9 of the AO – Respondent shall remove and properly dispose of the “C grade” solid wastes at the Site per the following schedule with an inception date of January 31, 2007:
  - a. Respondent shall remove 4,675 tons on or before July 31, 2007
  - b. Respondent shall remove an additional 4,675 tons (cumulative total of 9,350 tons on or before December 31, 2007
  - c. Respondent shall remove an additional 4,675 tons (cumulative total of 14,025 tons on or before May 31, 2008)
  - d. Respondent shall remove any and all remaining “C grade” solid wastes on or before September 30, 2008

**Respondent has failed to remove all remaining “C grade” solid wastes from the site, as of January 22, 2009.**

5. Item #10 of the AO – Upon effective date of the Agree Order, Respondent shall submit a report on a calendar quarter basis of all incoming and outgoing material for each type of material located at the site by the following scheduled dates:
  - a. Respondent shall submit the first quarterly report by April 30 (2007)
  - b. Respondent shall submit the second quarterly report by July 31 (2007)
  - c. Respondent shall submit the third quarterly report by October 31 (2007)
  - d. Respondent shall submit the fourth quarterly report by January 31 (2008)

**Although the respondent submitted all required quarterly report, as outlined above, the facility could not produce documentation of materials movement onto or away from the Elkhart site on January 22, 2009.**

6. Storm Water:

**VIM Recycling, Elkhart Operations failed to submit a Rule 6 Notice of Intent (NOI) Letter, as required by 327 IAC 15-6, by the inspection date of 1-22-09.**

**Potential outfall(s): Prior to walking the property, IDEM representatives requested the facility to provide a drainage map, indicating the design and construction of the facility’s storm water management. The facility provided a drainage map at the end of the inspection and IDEM representative captured the document in a photo for purposes of reviewing the document. The map shows several storm drains which are connected by underground piping to three on-site retention ponds. The facility also indicated all of the storm water is designed to be contained in Retention Pond 3. The drainage map provided by the facility depicts an outflow structure from Retention Pond 3 to the existing drainage ditch, Crawford Ditch, along the eastern border of the VIM property. Storm water is conveyed off site through the outflow structure to Crawford Ditch, eventually discharging into the St. Joseph River. There is only one (1) retention pond on the Elkhart property. However, it is unclear whether there is a discharge pipe leading from the pond to Crawford Ditch, or if the retention pond drains to groundwater under the pond. VIM Recycling filed a “No Exposure” notice with IDEM on 1-27-09. However, it was confirmed on 1-21-09, VIM Recycling, Elkhart Operations, have exposure issues with the “B”, “C” pile and berm regulated wastes.**

The following violations were found at the Eley Forest Products (dba VIM Recycling), Argos, Marshall County, operations site on January 22, 2009:

1. Storm Water:

**Due to weather condition, this site will have to be evaluated for storm water compliance later in the year. A follow up evaluation will be conducted by the Office of Water Quality.**

2. Air Quality:

**Due to grinding operations occurring at this facility in the warmer months, this site will have to be evaluated for Air Quality Permitting at that time.**

Please direct any response to this letter and any questions to me at 317/308-3045.

Sincerely,



Rick Roudebush,  
Technical Environmental Specialist  
Compliance and Response Branch  
Office of Land Quality

Enclosure

cc: Kosciusko County Health Department  
Elkhart County Health Department  
Marshall County Health Department



bcc: Nancy Johnston. Section Chief, OLQ Enforcement

Valerie Tachtiris, DAG

NRO



However, it was confirmed on 1-21-09 and 3-4-09, VIM Recycling, LLC, Warsaw operations has exposure issues with the exposed regulated waste wood, waste roofing shingles and waste wallboard open dumped on the property.

The above violations have been referred to the Enforcement Section of the Office of Land Quality, as well as, the Attorney General Office for further consideration. Please direct any response to this letter and any questions to me at 317/308-3045.

Sincerely,

A handwritten signature in black ink that reads "Rick Roudebush". The signature is written in a cursive, flowing style.

Rick Roudebush,  
Technical Environmental Specialist  
Compliance and Response Branch  
Office of Land Quality

Enclosure

cc: Kosciusko County Health Department

Elkhart County Health Department

Dale Custer, Owner, Superior Excavating, Warsaw



bcc: Nancy Johnston, Section Chief, OLQ Enforcement

Valerie Tachtiris, DAG

NRO

Kim Ferraro, LEAF

